

Analysis of a sample of the article by this department showed that it contained an insufficient number of organisms to be efficacious in the treatment of disease.

It was alleged in the libel that the article was adulterated in that its strength fell below the professed standard under which it was sold in that the article was sold under the following standard: (Carton and bottle label) "A preparation of the *Bacillus Bulgaricus*, Type A * * * and of a selected established strain of the *Bacillus Acidophilus* * * * Optolactin will retain its activity up to the date specified. Dec. 29, 1928;" (circular) "Optolactin is composed of mixed cultures of the *Bacillus Bulgaricus*, type A, and of *Bacillus Acidophilus*. * * * This product, Optolactin, will enable those who attach a special importance to the *Bacillus acidophilus* to try it in combination with bacilli already well known. * * * Optolactin has all the qualities of the *Bacillus bulgaricus* * * * with such new and important properties as may be derived from the inclusion of the *Bacillus acidophilus*. This Optolactin presents the mixed cultures of these lactic organisms in an effective form, viable to the period dated."

Misbranding was alleged in the libel for the reason that the statements above quoted, borne on the carton and bottle label and in the circular, and the following statements borne in the circular, "The five-grain tablet of Optolactin has a content of the Bulgarian bacilli, type A, * * * with the associated *Bacillus acidophilus*. * * * in chronic cases its systematic ingestion is desirable; in acute cases until the desired result is obtained," were false and fraudulent in that the article contained no ingredient or combination of ingredients capable of producing the effects claimed, and in that the said statements were applied to the article knowingly and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to purchasers thereof and create in the minds of such purchasers the impression and belief that the article was in whole or in part composed of or contained ingredients or medicinal agents or combinations effective among other things as a remedy for the diseases, ailments, and afflictions mentioned. The misbranding charges recommended by this department relative to the product were that the statements (circular) "In Chronic cases its systematic ingestion is desirable; in acute cases until the desired result is obtained," were false and fraudulent, and that the remainder of the statements from the labels quoted and referred to in the preceding paragraph were false and misleading.

On March 13, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture*.

16353. Misbranding of Adamson's botanic cough balsam. U. S. v. 92 Bottles of Adamson's Botanic Cough Balsam. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23538, I. S. No. 03545. S. No. 1728.)

On March 18, 1929, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 92 bottles of Adamson's botanic cough balsam, remaining in the original unbroken packages at New Haven, Conn., alleging that the article had been shipped by the F. W. Kinsman Co., from Elmira, N. Y., on or about December 8, 1928, and transported from the State of New York into the State of Connecticut, and charging misbranding in violation of the food and drugs act as amended.

Analysis of a sample of the article by this department showed that it consisted essentially of a sirup containing capsicum, tartar emetic, resinous material, including gum myrrh and gualac, and a trace of alkaloids, water, and alcohol (1.4 per cent).

It was alleged in the libel that the article was misbranded in that the following statements regarding the curative and therapeutic effects of the said article, (bottle label) "Hoarseness, Ordinary Sore Throat * * * Whooping Cough * * * Coughs * * * Bronchitis," (wrapper) "For * * * Sore Throat, Bronchitis, Bleeding and Soreness of Lungs, Whooping Cough * * * Coughs * * * Mal de Garganta, Bronquitis, Sangradure y Lastimadura de los Pulmones, Tos Ferina," (circular) "For * * * Sore Throats. * * * Bronchial and Lung Trouble * * * It is well known that the germs of * * * pneumonia and throat troubles are nearly always present in the air."

They exist in the dust of the streets and gutters everywhere and float in the air of many factories and other buildings. Every one, in the course of daily occupation, is constantly exposed to them. * * * let Nature be handicapped by a * * * catarrhal condition of the bronchial tubes or lungs, and she becomes unable to resist so successfully the invasion of disease germs which * * * find comparatively easy lodgment in the already weakened and diseased membranes of throat and lungs. The obvious moral * * * to treat them promptly and vigorously. * * * often the practice of 'wearing off' a cold, cough, or sore throat, results seriously, even fatally. Everyone is more or less frequently subjected to cold of a catarrhal nature and the neglect of these is responsible for more of the existing throat troubles and other serious sickness than probably any other cause of disease. Give Nature Her Fighting Chance * * * Treat It At Once. * * * For Sore Throat," were false and fraudulent in that the article contained no ingredient or combination of ingredients capable of producing the effects claimed, and in that the said statements were applied to the article knowingly and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to purchasers thereof and create in the minds of such purchasers the impression and belief that the article was in whole or in part composed of or contained ingredients or medicinal agents effective in the diseases and conditions named therein.

On April 11, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16354. Adulteration and misbranding of *Bacillus acidophilus*. U. S. v. 22 Bottles of *Bacillus Acidophilus*. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 22987. I. S. No. 01962. S. No. 1074.)

On August 16, 1928, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 22 bottles of *Bacillus acidophilus* at Chicago, Ill., alleging that the article had been shipped by G. H. Sherman, from Detroit, Mich., July 14, 1928, and transported from the State of Michigan into the State of Illinois, and charging adulteration and misbranding in violation of the food and drugs act as amended.

It was alleged in substance in the libel that the article was adulterated in that it was intended to be used for medicinal purposes, that is to say it was labeled, "*Bacillus Acidophilus* Sherman A live, high concentrated polyvalent culture of the *Bacillus Acidophilus*," which said article was falsely and fraudulently misbranded in that the said statements were applied knowingly and in reckless and wanton disregard of truth or falsity, so as to represent falsely and fraudulently to the purchaser that it was in whole or in part composed of or contained organisms necessary for the culture of *Bacillus acidophilus* intended for medicinal use, whereas it did not contain the necessary amount of organisms necessary for the culture of *Bacillus acidophilus* intended for medicinal use.

The charges recommended by this department against the product were that the article was adulterated in that its strength fell below the professed standard under which it was sold, namely, "A highly concentrated culture of the *Bacillus acidophilus*," and in that it was misbranded in that the statement "A highly concentrated culture of the *Bacillus Acidophilus*" was false and misleading.

On March 19, 1929, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16355. Misbranding of Turner's Inflammacine. U. S. v. 16 Dozen Jars of Turner's Inflammacine. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 23355. I. S. No. 05761. S. No. 1495.)

On January 30, 1929, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture filed in the District Court of the United States for said district a libel praying seizure and condemnation of 16 dozen jars of Turner's Inflammacine, remaining in the